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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/312,586	05/14/1999	TAYLOR S. GAUTIER	3941	2821

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EXAMINER

NGUYEN, VAN H

ART UNIT PAPER NUMBER

2126

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/312,586		GAUTIER, TAYLOR S.	
	<b>Examiner</b>		<b>Art Unit</b>	
	VAN H NGUYEN		2126	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 20-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 20-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-16 and 20-36 are presented for examination.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 8-16, 20, 21, 27-31, and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by **Himmel** (U.S. 6167441).

4. As to **claim 14**, Himmel teaches the invention as claimed including a system for transmitting content data over a network (*e.g., support a multitude of different client devices for an Internet application...customize an Internet application for a variety of client devices; col.2, lines 14-24*), comprising:

a content server (*e.g., a web server; col.2, lines 29-30; col.4, line 55; and col.10, line 11*), for receiving a request (*e.g., a request; col.2, lines 25-35/an HTTP request; col.2, lines 36-39/accepts a client request; col.4, lines 55-56*) for content (*e.g., a file; col.2, lines 25-35*) from a

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client device (*e.g., a requesting client device; col.2, lines 25-35*), selecting non-optional and optional content of the content data, the optional content selected responsive to performance characteristics of the client device (*e.g., The selected web page is dynamically reformatted... according to the detected client type; col.7, lines 36-39/ the customization may be dynamic modification of the web page content performed on the fly. Requests from clients having vastly different display sizes are likely to be directed to different web pages on different URLs. Requests from clients with similar screen sizes, but different display characteristics such as color palettes may be directed to the same URL, however, the embedded URLs which point to image data within the overall page may be dynamically selected; col.7, lines 40-51*), and transmitting the non-optional and selected optional content to the requesting client device (*e.g., the selected web page is sent to the client machine; col.7, lines 36-39/ provide the image which will look the best for the detected client device; col.7, lines 51-52*).

5. **As to claim 15**, Himmel teaches a plurality of client devices (*e.g., a variety of client devices running a variety of browsers; col.3, lines 14-15*), for transmitting requests for content to the content server and receiving content transmitted from the content server (*col.4, lines 42-56*), at least one client device having different performance characteristics than at least one other client device (*e.g., depending on the client device, there will be differences in the capabilities of the display, memory and processor; col.3, lines 66-67*).

6. **As to claim 16**, Himmel teaches optimization constraints index classes of client devices based upon performance characteristics and the optional content within a context data is indexed by the optimization constraints (*col.5, lines 32-37 and col.6, lines 30-35*), and the content server

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selects optional content from the context data responsive to assigning an optimization constraint to a requesting client device (col.6, lines 33-43).

7. **As to claim 1**, the rejection of claim 14 above is incorporated herein in full.

Additionally, Himmel further teaches:

storing a plurality of files, including files containing non-optional content data and optional content data (*e.g., a web server for storing files; col.10, lines 10-11*);  
determining performance characteristics of the client device (*e.g., detecting client device display capability information about the requesting client device wherein the client device display capability information includes data relating to physical display characteristics of a client device display; col.10, lines 12-16*); and

automatically including from the selected file the non-optional content data (*col.5, lines 7-12*), and automatically selecting optional content data responsive to the performance characteristics of the requesting client device (*e.g., some, but not all characteristics of the retrieved version of the file are dynamically modified according to the detected client device display capability information; col.10, lines 43-46*).

8. **As to claim 2**, Himmel teaches selecting, one of a plurality of content items responsive to the performance characteristics of the requesting client device (*col.4, lines 42-54*).

9. **As to claim 8**, Himmel teaches optimization constraints are associated with each content item (col.5, lines 32-37 and col.6, lines 30-35), and the optimization constraints index classes of client devices, wherein each class of client device has different performance characteristics (col. 3, lines 66-67), further comprising: assigning the requesting client device an optimization constraint responsive to the performance characteristics of the requesting client device (col.5,

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lines 32-37 and col.6, lines 30-35); and selecting comprises selecting a content item responsive to the assigned optimization constraint (col.4, lines 48-56 and col.7, lines 40-53).

10. **As to claim 9**, Himmel teaches determining a connection type in use by the client device (fig.3 and the associated text in col.6, lines 28-43); and associating an optimization constraint responsive to the connection type of the client device (col.5, lines 32-37 and col.6, lines 30-35).

11. **As to claim 10**, Himmel teaches determining a web browser in use by the requesting device; and associating an optimization constraint responsive to the web browser in use by the requesting client device (col.2, lines 36-52).

12. **As to claim 11**, Himmel teaches determining a processor type in use by the requesting client device (col.3, lines 66-67 and col.6, lines 28-33); and associating an optimization constraint further comprises: associating an optimization constraint responsive to the processor type in use by the requesting client device (col.3, lines 66-67 and col.6, lines 28-33).

13. **As to claim 12**, Himmel teaches determining an amount of memory in use by the requesting client device (col.6, lines 25-27); and associating an optimization constraint further comprises: associating an optimization constraint responsive to the amount of memory in use by the requesting client device (col.6, lines 18-27).

14. **As to claim 13**, Himmel teaches determining a display type in use by the requesting client device (col.2, lines 66-67 and col.4, lines 42-45); and associating an optimization constraint further comprises: associating an optimization constraint responsive to the display type in use by the requesting client device (col.4, lines 48-54).

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15. As to claim 20, it includes the same subject matter as in claim 1, and is similarly rejected under the same rationale. Additionally, Himmel teaches requesting a web page and transmitting the web page (col.4, lines 48-51).

16. As to claims 21 and 27-29, they include the same subject matter as in claims 2 and 8-10 above, and are similarly rejected under the same rationale.

17. As to claims 30 and 31, they are directed to a computer-readable medium for implementing the method of claims 1 and 2 above, and are similarly rejected under the same rationale.

18. As to claim 36, the rejection of claim 1 above is incorporated herein in full. Additionally, Himmel teaches determining a class of device to which the requesting client device belongs responsive to the performance characteristics of the requesting client *device* (col.5, lines 32-37 and col.6, lines 30-35); assigning the requesting client device an optimization constraint responsive to the determined class of client device (col.5, lines 32-37 and col.6, lines 30-35); and selecting one of a plurality of content items responsive to the assigned optimization constraint (col.4, lines 48-56 and col.7, lines 40-53).

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 3-7, 22-26, and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Himmel** in view of **Ogdon et al.** Ogdon was cited in the previous office action.

21. As to **claim 3**, Himmel does not explicitly teach the plurality of content items is ordered with respect to highest and lowest performance characteristics of client devices, and selecting comprises: responsive to a client device having a highest performance characteristic, selecting a first ordered content item.

Ogdon teaches the plurality of content items is ordered with respect to highest and lowest performance characteristics of client devices, and selecting comprises: responsive to a client device having a highest performance characteristic, selecting a first ordered content item (*abstract and col.3, lines 26-65*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ogdon with Himmel because Ogdon's teachings would have provided the capability for facilitating the customization of the selected Web pages in an Internet environment based on the capability information of the requesting client devices and for efficiently transmitting the customized Web pages to the requesting client devices.

22. As to **claim 4**, Ogdon teaches the plurality of content items is ordered with respect to highest and lowest performance characteristics of client devices, and selecting comprises: responsive to a client device having a highest performance characteristic, selecting a last ordered content item (*lines 40-65*).



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23. **As to claim 5**, Himmel teaches optimization constraints are assigned to classes of client devices (col.5, lines 32-37 and col.6, lines 30-35), and each class of client device has different performance characteristics (col. 3, lines 66-67), further comprising: determining the performance characteristics of the requesting client device (col.10, lines 12-16); determining a class of client device to which the requesting client device belongs responsive to the determined performance characteristics of the requesting client device (col.2, lines 36-42); assigning the requesting client device an optimization constraint responsive to the determined class of client device to which the requesting client device belongs (col.5, lines 32-37 and col.6, lines 30-35); and selecting comprises selecting, a content item whose order corresponds to the optimization constraint (col.10, lines 25-28).

24. **As to claim 6**, Ogdon teaches responsive to an optimization constraint specifying a class of device having a lowest performance characteristic, selecting a content item requiring a least amount of bandwidth to be transmitted (lines 40-65).

25. **As to claim 7**, Ogdon teaches responsive to an optimization constraint specifying a class of device having a lowest performance characteristic, selecting a content item requiring a least amount of data (lines 26-46).

26. **As to claims 22-26**, they include the same subject matter as in claims 3-7 above, and are similarly rejected under the same rationale.

27. **As to claims 32-35**, they are directed to a computer-readable medium for implementing the method of claims 3, 5, 8, and 9 above, and are similarly rejected under the same rationale.

***Response to Arguments***

28. Applicant's arguments with respect to claims 1-16 and 20-36 have been fully considered, but are deemed to be moot in view of the new grounds of rejection.

***Conclusion***

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765.

The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday.

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756.

31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

32. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**Any response to this action should be mailed to:**

Commissioner for patents

P O Box 1450

Alexandria, VA 22313-1450

A handwritten signature in cursive script that reads "Van H. Nguyen".

Van H. Nguyen